



Canadian Environmental Law Association
L'Association canadienne du droit de l'environnement

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21 October 1981

Mr. K.J. Merklinger
Director
U.S. Transboundary Relations Division
Department of External Affairs
Ottawa, Ontario
K1A 0G2

Dear Mr. Merklinger:

Re: U.S. v. Hooker Chemicals and Plastics Corp. et al
(Hyde Park Landfill)

Thank you for your letter of September 24, 1981. As you are aware, final argument and submissions regarding the proposed settlement between Hooker, U.S. E.P.A., and the State of New York took place in Buffalo on Friday, October 16, 1981.

We have enclosed a copy of our post-hearing submission filed on October 14, 1981 for your information. It is our firm belief that the settlement agreement does not even provide for the necessary studies to ensure that the nature and scope of the contaminant problem will be accurately ascertained.

Specifically, there is no requirement to study, do chemical sampling, or monitor below "the top of the Rochester Shale". However, the results of the chemical testing done by Environment Canada show that significant concentrations of landfill-derived contaminants have been found along the gorge face and specifically at the Rochester Shale and Whirlpool Sandstone formations.

Hooker Chemicals, in its final oral submission to the Court, stated that it would not consider excavation as a remedial technology "unless s ordered" and in its written submission noted that it was not going to consider excavation because of "parochial Canadian interests". We feel that this distortion that the fate of the Niagara River and Lake Ontario which provides a source of drinking water not only to Canadians but to over one million Americans, should be addressed.

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We also feel that there are a number of issues that the Canadian government should be continuing to press with U.S. State Department including certain studies and tests that must be undertaken even if the agreement is signed in its present form. For example, at the Judge's urging U.S. E.P.A., at the hearing, did undertake to do certain chemical tests on the gorge face.

We, therefore, feel that a meeting on this matter would be useful. Anne Wordsworth and myself can arrange to come to Ottawa if you are not going to be in Toronto in the near future. Mondays or Fridays are the most convenient days for us to meet in Ottawa.

Yours truly,
CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in cursive script that reads "Toby Vigod". The signature is written in dark ink and is positioned above the typed name and title.

Toby Vigod
Counsel

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encl.